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<b>A.C., Appellant</b>	)	
	)	
<b>and</b>	)	<b>Docket No. 18-1176</b>
	)	<b>Issued: December 4, 2018</b>
<b>U.S. POSTAL SERVICE, POST OFFICE,</b>	)	
<b>St. Louis, MO, Employer</b>	)	
	)	

### Case Submitted on the Record

Before:  
CHRISTOPHER J. GODFREY, Chief Judge  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

On May 22, 2018 appellant filed a timely appeal from a May 7, 2018 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

The issue is whether appellant has established eligibility for continuation of pay (COP).

On March 22, 2018 appellant, then a 27-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on March 12, 2018 she injured her back and neck in a motor vehicle accident. Her supervisor signed the CA-1 form on March 22, 2018. Appellant stopped work on

<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

March 13, 2018 resumed work on March 21, 2018. The claim form indicated that the employing establishment received notice of the injury on April 30, 2018.

Appellant's supervisor provided her with a signed authorization for examination and/or treatment (Form CA-16) on March 12, 2018. The form listed the history of injury as a motor vehicle accident on March 12, 2018.

OWCP, on May 7, 2018, accepted the claim for a strain of the muscle, fascia, and tendons of the lower back.

By decision dated May 7, 2018, OWCP denied appellant's claim for COP for the period from March 13 to April 27, 2018. It found that she had not reported her injury on an approved form within 30 days. OWCP advised appellant that its denial of COP did not affect her entitlement to compensation benefits and, thus, did not preclude her from applying for said benefits.

### **LEGAL PRECEDENT**

Section 8118(a) of FECA<sup>2</sup> authorizes continuation of pay, not to exceed 45 days, to an employee who has filed a claim for a period of wage loss due to a traumatic injury with his or her immediate superior on a form approved by the Secretary of Labor within the time specified in section 8122(a)(2) of this title. This latter section provides that written notice of injury shall be given within 30 days.<sup>3</sup> The context of section 8122 makes clear that this means within 30 days of the injury.<sup>4</sup>

OWCP regulations provide, in pertinent part, that to be eligible for continuation of pay, an employee must: (1) have a traumatic injury which is job related and the cause of the disability and/or the cause of lost time due to the need for medical examination and treatment; (2) file a Form CA-1 within 30 days of the date of the injury (but if that form is not available, using another form would not alone preclude receipt); and (3) begin losing time from work due to the traumatic injury within 45 days of the injury.<sup>5</sup>

The employee must provide a written report on a Form CA-1 to the employing establishment within 30 days of the injury.<sup>6</sup> OWCP's procedures provide that another OWCP-approved form, such as CA-2, CA-2a, or CA-7 forms, which contains words of claim, can be used to satisfy timely filing requirements.<sup>7</sup>

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<sup>2</sup> 5 U.S.C. § 8118(a).

<sup>3</sup> *Id.* at § 8122(a)(2).

<sup>4</sup> *See M.B.*, Docket No. 17-1782 (issued February 5, 2018).

<sup>5</sup> 20 C.F.R. § 10.205(a)(1-3). *See also M.B.*, *id.*

<sup>6</sup> *Id.* at § 10.210(a).

<sup>7</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Continuation of Pay and Initial Payments*, Chapter 2.807.5 (June 2012).

The Board has held that section 8122(d)(3) of FECA,<sup>8</sup> which allows OWCP to excuse failure to comply with the time limitation provision for filing a claim for compensation because of exceptional circumstances, is not applicable to section 8118(a), which sets forth the filing requirements for continuation of pay. Thus, there is no provision in the law for excusing an employee's failure to file a claim within 30 days of the employment injury.<sup>9</sup>

### **ANALYSIS**

The Board finds that appellant timely filed her claim for COP for her March 12, 2018 employment injury.

OWCP found that appellant's claim for COP was untimely as she filed her claim more than 30 days after her March 12, 2018 work injury. The Board finds, however, that she signed and submitted a CA-1 form for traumatic injury within 30 days of her March 12, 2018 work-related injury. Appellant's supervisor signed the CA-1 form she submitted for the March 12, 2018 employment injury on March 22, 2018. The supervisor also provided her with a signed CA-16 form authorizing medical treatment on March 12, 2018, the date of injury.

The employing establishment indicated on the CA-1 form that it had received notice of the injury on April 30, 2018. The Board finds, however, that appellant's supervisor's signing of the CA-1 form on March 22, 2018 clearly demonstrated that she had submitted written notice of her work injury to the employing establishment on an approved form within 30 days.<sup>10</sup> OWCP, therefore, erred in denying her request for COP as untimely filed.<sup>11</sup>

On remand, OWCP should consider appellant's timely request for COP. After such further development as deemed necessary, it shall issue a *de novo* decision.<sup>12</sup>

### **CONCLUSION**

The Board finds that appellant has established eligibility for continuation of pay (COP).

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<sup>8</sup> 5 U.S.C. § 8122(d)(3).

<sup>9</sup> See *M.B.*, *supra* note 4; see also *L.S.*, Docket No. 16-0088 (issued June 10, 2016); *William E. Ostertag*, 33 ECAB 1925, 1932 (1982)..

<sup>10</sup> See *L.S.*, Docket No. 11-1720 (issued February 13, 2012).

<sup>11</sup> See *Bossy W. Anderson*, 41 ECAB 833 (issued June 20, 1990).

<sup>12</sup> The Board notes that the employing establishment issued a Form CA-16 Authorization for Medical Treatment. A properly completed CA-16 form authorization may constitute a contract for payment of medical expenses to a medical facility or physician, when properly executed. The form creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. See 20 C.F.R. § 10.300(c); *Tracy P. Spillane*, 54 ECAB 608 (2003).

**ORDER**

**IT IS HEREBY ORDERED THAT** the May 7, 2018 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this opinion of the Board.

Issued: December 4, 2018  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board